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8 UNITED STATES DISTRICT COURT

9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) CR No. 03-
11 Plaintiff,) I N F O R M A T I O N
12 v.) [15 U.S.C. §§ 78m(a), 78ff and
13 RICHARD MARKS,) 17 C.F.R. §§ 240.12b-20,
14 Defendant.) 240.13a-1: False Statements in
15) a Report Filed with the SEC;
16) 18 U.S.C. § 2(b): Causing an
Act to be Done]

17 The United States Attorney charges:

18 COUNT ONE

19 [15 U.S.C. §§ 78m(a), 78ff; 17 C.F.R. §§ 240.12b-20, 240.13a-1;
20 18 U.S.C. § 2(b)]

21 [False Statement in a Report Filed with the SEC]

22 Introduction

23 1. At all times relevant to this Information:

24 a. Motorcar Parts & Accessories, Inc. ("MPA") was a
25 remanufacturer of automotive alternators and starters. MPA was a
26 corporation with headquarters in Torrance, California.

27 b. Defendant RICHARD MARKS ("MARKS") was President

28 EL:el

1 and Chief Operating Officer of MPA from 1987 until 1999.

2 c. Richard A. Eisner & Company, LLP ("Eisner") was an
3 accounting firm which was retained by MPA as its independent
4 public accountant to audit MPA's annual financial statements.
5 Eisner served as MPA's accountant and audited MPA's annual
6 financial statements as of and for each of the fiscal years ended
7 March 31, 1992 through 1998. On March 1, 2000, MPA dismissed
8 Eisner as its independent accountant.

9 Required Record Keeping, Internal Controls,
10 and Financial Disclosures

11 2. In November 1994, MPA made an initial public offering
12 of its stock. MPA's common stock was registered with the United
13 States Securities and Exchange Commission ("SEC") and was
14 publicly traded on the National Association of Securities Dealers
15 Automated Quotation ("NASDAQ") system, which subjected MPA to
16 certain reporting requirements imposed under federal law.

17 3. In order to sell securities to members of the public
18 and to maintain public trading of its securities, MPA was
19 required to comply with SEC regulations designed to ensure that
20 the company's financial information was accurately recorded and
21 disclosed to the investing public.

22 4. Under these SEC regulations, MPA had a duty to, among
23 other things, file with the SEC annual financial statements,
24 prepared according to rules and regulations prescribed by the SEC
25 and audited by an independent public accountant, that accurately
26 presented MPA's financial condition and results of its business
27 operations in accordance with generally accepted accounting
28 principles (also known as "GAAP").

1 Overview of the Fraudulent Scheme

2 5. Defendant MARKS directed MPA employees to engage in
3 fraudulent accounting practices and to falsify MPA's books and
4 records, thereby causing false and misleading statements to be
5 made to the investing public about MPA's sales, net sales,
6 accounts receivable, inventory, assets, cost of goods sold, total
7 operating expenses, income before income taxes, financial
8 condition, and accounting practices.

9 Holding Periods Open

10 6. Under GAAP, a company's sales revenues and income are
11 recorded and reported for specific reporting periods, e.g., for a
12 quarter or a year. Under GAAP, the rules and regulations of the
13 SEC, and MPA's own publicly stated accounting policies, MPA could
14 report revenues from the sale of merchandise in a particular
15 reporting period only when the merchandise was shipped to the
16 customer in that period.

17 7. MPA's financial statements were publicly reported four
18 times a year, that is quarterly, based on a fiscal year that
19 began April 1st and ended March 31st. Defendant MARKS and others
20 carried out a scheme to defraud that involved falsely inflating
21 MPA's net income for the fiscal year ended March 31, 1997 by
22 falsely reporting \$2,425,000 of sales that in fact were shipped
23 after the fiscal year ended. This practice is sometimes known as
24 leaving a period "open." In addition, defendant MARKS covered up
25 the false manipulation of MPA's financial results through false
26 statements and the creation of fraudulent documents.

27 8. Defendant MARKS thereby fraudulently caused the amount
28 of MPA's net sales to be materially overstated, and thus, MPA's

1 income before income taxes to be materially overstated in MPA's
2 financial statements for the fiscal year ended March 31, 1997.

3 9. On or about June 30, 1997, in Los Angeles County,
4 within the Central District of California, and elsewhere,
5 defendant MARKS knowingly and willfully caused to be made
6 materially false and misleading statements, and caused to be
7 omitted material facts necessary to make the statements made, in
8 light of the circumstances under which the statements were made,
9 not misleading, in a report and document that was required to be
10 filed with the SEC, namely, a Form 10-K for the fiscal year ended
11 March 31, 1997. Specifically, the Form 10-K:

12 (a) falsely reported:

- 13 i. that MPA had sales of \$97,677,000 for the year
14 ended March 31, 1997,
15 ii. that MPA had net sales of \$86,872,000 for the year
16 ended March 31, 1997,
17 iii. that MPA had operating income of \$10,153,000 for
18 the year ended March 31, 1997,
19 iv. that MPA had income before income taxes of
20 \$9,063,000 for the year ended March 31, 1997,
21 v. that MPA recognized sales when products were
22 shipped;

23 (b) failed to disclose that MPA's reported financial
24 performance and condition were overstated because of
25 the fraudulent practices described above; and

26 (c) failed to disclose that MPA's financial statements had
27 not been prepared in accordance with GAAP.
28

COUNT TWO

[15 U.S.C. §§ 78m(a), 78ff; 17 C.F.R. §§ 240.12b-20, 240.13a-1;
18 U.S.C. § 2(b)]

[False Statement in a Report Filed with the SEC]

10. The United States Attorney repeats and realleges paragraphs 1 through 5 of this Information as if fully set forth herein.

Overstatement of Inventory

11. In connection with the audit at fiscal year end for 1998, Eisner auditors arrived at MPA on approximately April 7, 1998 to conduct test counts of MPA's inventory. By the close of business on April 7, 1998, Eisner auditors had finished their test counts of finished goods in MPA's warehouse located on California Street ("the California Street warehouse") but had not conducted their test counts of work-in-process inventory in MPA's other warehouse, located on Maricopa Street ("the Maricopa Street warehouse").

12. After Eisner auditors left MPA for the day on April 7, 1998, defendant MARKS caused MPA personnel to move truckloads of goods that had already been counted and included in inventory at the California Street warehouse to the Maricopa Street warehouse so that it would be included a second time in the test counts of the Eisner auditors.

13. When the Eisner auditors arrived at MPA on April 8, 1998, the transferred inventory was counted and included in inventory a second time at the Maricopa Street warehouse.

14. By causing the transferred inventory to be double-counted, unbeknownst to the Eisner auditors, defendant MARKS

1 fraudulently caused the amount of MPA's inventory to be
2 materially overstated, and thus, MPA's income before income taxes
3 to be materially overstated in MPA's financial statements for the
4 fiscal year ended March 31, 1998.

5 15. On or about June 29, 1998, in Los Angeles County,
6 within the Central District of California, and elsewhere,
7 defendant MARKS knowingly and willfully caused to be made
8 materially false and misleading statements, and caused to be
9 omitted material facts necessary to make the statements made, in
10 light of the circumstances under which the statements were made,
11 not misleading, in a report and document that was required to be
12 filed with the SEC, namely, a Form 10-K for the fiscal year ended
13 March 31, 1998. Specifically, the Form 10-K:

14 (a) falsely reported:

- 15 i. that MPA's inventory as of March 31, 1998 was
16 \$54,736,000,
- 17 ii. that MPA's total current assets as of March 31,
18 1998 was \$89,297,000,
- 19 iii. that MPA's cost of goods sold was \$91,317,000 for
20 the year ended March 31, 1998,
- 21 iv. that MPA's total operating expenses were
22 \$100,581,000 for the year ended March 31, 1998,
- 23 v. that MPA had operating income of \$12,371,000 for
24 the year ended March 31, 1998, and
- 25 vi. that MPA had income before income taxes of
26 \$10,794,000 for the year ended March 31, 1998,

27 (b) failed to disclose that MPA's reported financial
28 performance and condition were overstated because of

1 the fraudulent practices described above; and
2 (c) failed to disclose that MPA's financial statements had
3 not been prepared in accordance with GAAP.

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5 DEBRA W. YANG
6 United States Attorney

7 STEVEN D. CLYMER
8 Special Assistant United States Attorney
9 Chief, Criminal Division

10 ELAINE LU
11 Assistant United States Attorney
12 Major Frauds Section
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